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Ms. Magalie Salas

Secretary

Federal Communications Commission

1919 M Street, N.W.

Room 222

Washington, D.C. 20554

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MAR 27 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Matter of the Pay Telephone Reclassification and
Compensation Provisions of the Telecommunications Act
of 1996, CC Docket No. 96-128

Dear Ms. Salas:

On March 26, 1998, Aaron Panner (Kellogg, Huber) and I met with Rose Crellin, Craig Stroup and Jennifer Myers of the FCC on behalf of the RBOC/GTE/SNET Payphone Coalition to discuss issues in the above-captioned proceeding. The enclosed letter to Rose Crellin was prepared by the Coalition and reflects the substance of our discussion.

One original and one copy of this letter are being submitted to you in compliance with 47 C.F.R. § 1.1206(a)(2) to be included in the record of this proceeding. If you have any questions concerning this matter, please contact me at (202) 326-7902.

Sincerely,

Michael K. Kellogg

Michael K. Kellogg

Enclosure

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March 27, 1998

Ms. Rose M. Crellin
Federal Communications Commission
2025 M Street, N.W., Room 6120
Washington, D.C. 20554

Re: Pay Telephone Reclassification and Compensation
Provisions of Telecommunications Act of 1996,
CC Docket No. 96-128

Dear Ms. Crellin:

I am writing on behalf of the RBOC/GTE/SNET Payphone Coalition regarding the mechanism for calculation of IXC's compensation obligations during the period when some payphones are not yet transmitting payphone specific digits.

As an initial matter, the Coalition believes it is important for the Bureau to emphasize that the Commission's orders and the Bureau's prior waiver orders make clear that IXCs must pay per-call compensation for all phones that are capable of passing payphone specific digits. If a payphone is capable of passing Flex ANI digits, the mere fact that an IXC has not ordered Flex ANI from the LEC should not affect the IXC's obligation to pay per-call compensation for calls from such payphones. A per-station compensation mechanism should apply only to those payphones that are not yet capable of passing payphone specific digits.

In addition, the Bureau should make clear that IXCs must pay per-call compensation for all 0+, 0-, 1+, and inmate calls that

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Ms. Rose Crellin

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are not otherwise compensated.¹ We do not understand any IXC to claim that it is incapable of tracking such calls. Indeed, because IXCs, as the presubscribed interexchange carrier, is typically required to pay commissions to the premises owner who selected the IXC as the presubscribed carrier, the IXC has been required to track such calls all along.²

The Coalition also notes that most IXCs can pay per-call compensation on access code and subscriber 800 calls from all payphones, by relying on ANI lists provided by LECs. To the Coalition's knowledge, only AT&T, WorldCom, Frontier, and LCI have alleged that they are unable to pay per-call compensation based on ANI lists because of the volume of calls involved. Any waiver of the obligation to pay compensation on a per-call basis should extend only to those carriers who have already asked for such relief on a timely basis.

To the extent some waiver relief is required, the Coalition believes that the fairest, most efficient, and probably least contentious way for the Bureau to determine each carrier's per-payphone payment obligation is to rely on the call volume data and distribution data submitted by the Coalition in its ex parte letter of March 24, 1998. That data is presented in amalgamated form in the attached table. The data, collected by three geographically diverse RBOCs, Bell Atlantic South, Pacific Bell, and U S WEST, is fairly representative -- including over 400,000 payphones, more than 20 percent of the nation's total -- and both highly precise and accurate.

¹See Second Report and Order, Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket 96-128, FCC 97-371, ¶ 2 (1997) ("As of October 7, 1997, PSPs must be compensated for all payphone calls not otherwise compensated pursuant to contract, including 0+ and inmate calls.").

²In the case of 1+ calls, the IXC must document to the originating PSP the amount of compensation to which the IXC is entitled.

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For large, facilities-based carriers, the data presented are relatively consistent across regions; reliance on this sample to establish such carrier's per-payphone obligations is fully justified. The payment obligations of the four carriers who have requested waivers can be easily calculated from the attached data. Total per-payphone compensation for access code and subscriber 800 calls is \$40.06 per month (that is, 141.06 calls times \$.284). AT&T's share would be \$14.85 per payphone per month (that is, 37.08% of the total, or 52.32 calls times \$.284). WorldCom's share would be \$4.88; LCI's share would be \$1.13; and Frontier's share would be \$1.10.³

The use of the call distribution data may be less appropriate for small regional carriers, who, it might be argued, could face disproportionate burdens because the data submitted are not comprehensive. However, because no small carrier has requested a waiver of the per-call compensation obligation, such carriers should simply be required to pay per-call compensation based on the ANI lists.⁴

In addition, to the extent that the RBOC data includes carriers who are resellers, rather than facilities-based, the Bureau should require that the reseller identify the facilities-based carrier who has incurred the compensation obligations for the calls in question.

The Coalition notes that some have proposed calculating the per-payphone obligation by requiring each IXC to calculate its per-payphone obligation by dividing the number of calls it receives from BOC payphones capable of passing the "27" digits by the number of such payphones. The Coalition believes that this

³This allocation represents a relative bargain for those carriers, because the Coalition payphones that are most often incapable of passing payphone specific digits are generally smart phones, which tend to have the highest volume of calls.

⁴Alternatively, the Bureau could adopt the RBOC distribution list for the ten or fifteen largest carriers, and require per-call payments from the rest.

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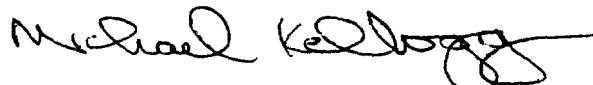
method is inferior to the one proposed above, because it is less accurate and less comprehensive than reliance on the RBOC data submitted. Indeed, the Bureau's method threatens to undercompensate PSPs quite severely. The payphones that this proposed method would treat as representative are in fact consistently among those payphones with the lowest call volumes, in large part because any BOC with a combination of smart and dumb payphones will tend to place smart phones in the highest volume locations and leave dumb phones in low volume locations.

However, in the event that the Bureau does choose to rely on this approach, the RBOCs will undertake to provide to IXC's as quickly as possible a list of all payphones that pass the "27" digits on all payphone calls. It will then be incumbent upon the IXC's to determine how many calls are received from those lines.

Finally, the Bureau should reaffirm that IXC's must pay compensation for all calls for the October 1997 through December 31, 1997 period on April 1, 1998. There is simply no excuse for an IXC to fail to pay per-call compensation for all payphones capable of passing payphone specific digits on April 1. To the extent that per-payphone obligations will be delayed to permit the implementation of a mechanism for calculation of such obligations, the Bureau should set a clear and expeditious timetable for the payment of any per-payphone obligations.

If I can provide any additional information or clarification, please call me at (202) 326-7902.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Michael Kellogg", with a stylized flourish at the end.

Michael K. Kellogg

cc: Glenn Reynolds
Craig Stroup
Jennifer Myers

Combined Call Volumes
Carriers A, B, C
Calls by Carrier
1-800 Access, 1-800 Subscriber and 10XXX Calls

Carrier	CICs	Average Calls per Station per Month	% of Average calls per month total
AT&T	0288, 0387, 0732, 1288, 0375, 0988, 0686	52.32	37.08%
MCI	0022, 0088, 0122, 0888, 0898, 1022, 0222	35.74	25.33%
WorldCom	0446, 0450, 0488, 0555, 0999, 1001, 1053, 1055, 1212, 1267, 1311, 1312, 1450, 1555, 1786, 1801, 1999, 0535, 0001, 0050, 0053, 0212, 0266, 0312, 0555, 0589, 0683, 0737, 0789, 0801, 0995, 0999	17.17	12.17%
Sprint	0033, 0872, 1033, 0333	15.18	10.76%
LCI	0040, 0432, 0537, 0757	3.99	2.83%
FRONTIER	0003, 0086, 0211, 0052, 0066, 0260, 0322, 0400, 0444, 0500, 0511, 0539, 0569, 1044, 1066, 1539	3.89	2.75%
RBOC weighted average		3.09	2.19%
Allnet Dial 1 Service	0444	1.60	1.14%
Cable & Wireless	0223	1.33	0.95%
Switched Service	0948	0.89	0.63%
ATX Telecom Services	0004	0.64	0.45%
TELECOM*USA (MCI)	0087, 0220, 0224, 0321, 0826, 0832, 0835, 0852, 0876	0.52	0.37%
Total-Tel USA, Inc.	0081	0.32	0.22%
TEL AMERICA	0700	0.30	0.21%
Business Telecom, Inc. (BTI)	0833	0.29	0.21%
Telco Communications Group dba Dial & Save	0457	0.28	0.20%
US Long Distance	0070	0.28	0.20%
Eastern Telecom International	0136	0.26	0.18%
MFS	0440	0.25	0.18%
Access Long Distance	0937, 0991, 1990	0.21	0.15%
Westinghouse Electric Corporation	0946	0.14	0.10%
Americall	0099	0.13	0.10%
US WATS	0200	0.13	0.09%
EconoPhone Inc.	0604	0.13	0.09%
U.S. LONG DISTANCE, INC.	0070	0.12	0.08%
Execulines of Sacramento	0511	0.11	0.08%
Chadwick Telephone	0909	0.10	0.07%
Bittell Telecommunications	0867	0.10	0.07%
Deluxe Data Systems	0693	0.09	0.07%
American Long Lines	0241	0.08	0.05%
WorldXChange	0502	0.07	0.05%
One Star Long Distance	0873, 1873	0.06	0.04%
Eastern Telephone Systems, Inc	0054	0.05	0.04%
North American Communications Inc.	0933	0.05	0.04%
ATI Telecom, Inc.	5810	0.05	0.04%
OCI	0658, 0805	0.05	0.04%
OPTICOM ONE CALL	0880	0.05	0.04%
Capital Telecommunications, Inc.	0221, 0963	0.04	0.03%

Combined Call Volumes
Carriers A, B, C
Calls by Carrier
1-800 Access, 1-800 Subscriber and 10XXX Calls

ICON COMMUNICATIONS	0706, 1706	0.04	0.03%
SHARED COMMUNICATIONS SERVICES	0246	0.04	0.03%
Call America Business Comm.	0344	0.04	0.03%
SWITCH 2000 INC -	0727	0.04	0.03%
FTI COMMUNICATIONS	0735, 5735, 5772	0.03	0.02%
LONG DISTANCE WHOLESALE CLUB	0297	0.03	0.02%
U S LINK	0355	0.03	0.02%
TELTRUST, INC	0485	0.03	0.02%
Cooperative Communications, Inc.	5559	0.03	0.02%
Network Plus	0764	0.03	0.02%
LONG DISTANCE/USA (SPRINT)	0252	0.02	0.02%
Long Distance Telephone Savers	0213	0.02	0.02%
NEXTLINK	0468	0.02	0.02%
DIAL & SAVE	0457	0.02	0.02%
Cleartel Communications	0548	0.02	0.01%
SP Telecom	0056	0.02	0.01%
TOUCH AMERICA, INC.	1335, 0335	0.02	0.01%
TELEPHONE EXPRESS	0899	0.02	0.01%
Citizens Communications	0096	0.02	0.01%
TCG	0303	0.02	0.01%
FOX COMMUNICATIONS	0637	0.02	0.01%
GENERAL COMMUNICATION INC	1077, 0077	0.02	0.01%
ICG	0513	0.02	0.01%
WESTEL, INC.	0085	0.01	0.01%
FRESH START COMMUNICATIONS - FSC	5665	0.01	0.01%
QWEST COMMUNICATIONS	0056	0.01	0.01%
CUSTOMER TELECOM NETWORK (CTN)	0586	0.01	0.01%
CALL AMERICA	0300, 5045	0.01	0.01%
Ameritel	0794	0.01	0.01%
U S COMMUNICATIONS, INC.	0879	0.01	0.01%
AMNEX	0370	0.01	0.01%
NTI/NATIONAL TELESERVICE	0401	0.01	0.01%
IOWA COMMUNICATIONS NETWORK	0283	0.01	0.01%
ELECTRIC LIGHTWAVE, INC.	0802	0.01	0.01%
NORLIGHT, INC.	0499, 0837, 0912	0.01	0.01%
AMERICAN SHARECOM	1400	0.01	0.01%
American Network Exchange Inc., sub. of AMNEX, Inc.	0370	0.01	0.01%
ITC NETWORKS	1468, 1478, 0478	0.01	0.01%
NORTHWEST TELECOM	0638	0.01	0.01%
SHARENET COMMUNICATIONS	0549	0.01	0.00%
PHOENIX NETWORK, INC.	0244, 0420	0.01	0.00%
ATHENA INTERNATIONAL, LLC	0822	0.01	0.00%
FIRSTEL	0475	0.01	0.00%
UNICOM	0955	0.01	0.00%
POPP TELCOM	0477, 1477	0.01	0.00%
Keystone Telecom, Inc.	0545	0.01	0.00%
EMPIRE ONE TELECOMMUNICATIONS, INC.	0359	0.01	0.00%
MIDCO COMMUNICATIONS	0338, 0996	0.01	0.00%
All Others		0.16	0.11%
Total		141.10	100.00%
		141.06*	
*Adjusted for inclusion of inmate calls by Carrier C.			